

CWP No. 14351 of 2021(O&M)

2024:PHHC:046190-DB

**105+232 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No. 14351 of 2021(O&M)

Date of Decision: 03.04.2024

Laxmi Devi

.....Petitioner

Versus

Union of India and another

..... Respondents

**CORAM : HON'BLE MRS JUSTICE LISA GILL
HON'BLE MRS JUSTICE AMARJOT BHATTI**

Present: Mr.J.P.Sharma, Advocate for the petitioner.

Mr. D.K.Gupta, Advocate for respondent No.2.

LISA GILL, J.(Oral)

1. Prayer in this writ petition is for issuance of direction to respondents not to terminate/rescind proposal for One Time Settlement (OTS) dated 04.03.2021 (Annexure P-1) which is stated to still be in force and protected by virtue of Division Bench orders of this Court dated 28.04.2021 and 30.06.2021(Annexures P-2 and P-3 respectively) passed in CWP-PIL-77-2021.

2. It is submitted that petitioner, who is running a factory in the name and style of Ramesh Food Industries at village Nuni Awal, District Mahendergarh had taken loan facility from respondent No.2. Proceedings under Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'SARFAESI Act') were initiated against petitioner with possession notice dated 15.01.2018 also being issued for deposit

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of a sum of Rs. 55,43,648/- stated to be due as on 30.09.2017. Settlement was, however, arrived at between the parties which was sanctioned on 04.03.2021 for a sum of Rs.41,23,000/-. A sum of Rs.6,25,000/- was deposited and it was agreed that sum of Rs.34 lakhs approximately would be deposited till 20.03.2021. However, due to outbreak of pandemic COVID-19, loss was suffered by petitioner and he failed to repay the balance amount in terms of settlement. Father-in-law of petitioner is also stated to have unfortunately died on 06.05.2021. It is submitted that OTS (Annexure P-1) continues to be in existence and petitioner was duly protected in terms of orders dated 28.04.2021 and 30.06.2021 passed in CWP-PIL-77-2021. However, respondent-bank, it is submitted, was bent upon taking action against petitioner under SARFAESI Act, which is unjustified and in fact illegal. It is, thus, prayed that respondents should be directed not to terminate or rescind OTS dated 04.03.2021.

3. Learned counsel for respondent-bank has opposed this petition by submitting that no direction could be issued as is prayed for by petitioner. Moreover, petitioner has even failed to deposit sum of Rs. 5 lakhs in terms of order dated 06.12.2021. Sum of approximately more than Rs. 80 lakhs is due from petitioner as on date.

4. Having heard learned counsel for parties we do not find any ground for interference in the present writ petition. It is settled position that borrower or guarantor does not have a vested right for OTS. It has been held by Hon'ble the Supreme Court in judgment of **The Bijnor Urban Cooperative Bank Limited, Bijnor and others vs. Meenal Aggarwal and others, 2022 AIR (SC) 56** as under:-

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5. Even taking into consideration orders dated 28.04.2021 and 30.06.2021 passed in CWP-PIL-77-2021, it is a matter of record that petitioner has even failed to deposit amount of Rs. 5 lakhs in terms of order dated 06.12.2021 wherein it was directed that subject to petitioner depositing the said amount within a period of four weeks, her dispossession from property in dispute shall remain stayed. The said interim order was continued. Thereafter it was subsequently extended on May 22, 2023 but still petitioner has not come forth to deposit the amount in question. We do not find any ground to extend the period of One Time Settlement as is sought by petitioner. Reference in this regard can be made to judgment of Hon’ble the Supreme Court in the case of **State Bank of India Vs. Arvindra Electronics Pvt. Ltd., 2023(1) SCC 540.**

6. Accordingly, present writ petition is dismissed. Needless to say petitioner is at liberty to avail statutory remedy/remedies available to her in accordance with law for challenging proceedings under SARFAESI Act initiated against her, if so advised.

7. Pending application(s), if any, stand(s) disposed of accordingly.

(LISA GILL)
JUDGE

(AMARJOT BHATTI)
JUDGE

03.04.2024
Sunita/rts

Whether Speaking :	Yes/No
Whether Reportable	:Yes/No